

MEMORANDUM

Agenda Item No. 4(B)

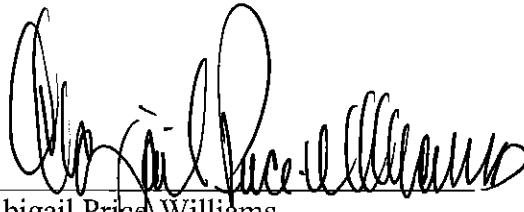
TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: September 7, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to transit;
amending section 30B-3 of
the Code; providing for civil
citation under chapter 8CC
of the Code as an additional
means to enforce certain
violations; amending section
8CC-10; providing civil
penalties

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz.


Abigail Price-Williams
County Attorney

APW/smm



MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: September 7, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 4(B)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(B)

9-7-16

ORDINANCE NO. _____

ORDINANCE RELATING TO TRANSIT; AMENDING SECTION 30B-3 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR CIVIL CITATION UNDER CHAPTER 8CC OF THE CODE AS AN ADDITIONAL MEANS TO ENFORCE CERTAIN VIOLATIONS; AMENDING SECTION 8CC-10; PROVIDING CIVIL PENALTIES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, this Board is given broad authority to enact ordinances under Miami-Dade County's home rule powers and prescribe penalties for violation of such ordinances; and

WHEREAS, it was the intent of this Board by enacting chapter 30B of the Code of Miami-Dade County to accomplish the following purposes for Miami-Dade Transit, the Metrorail, Metromover, and Metrobus systems:

1. Enable the safe, secure and efficient operation of public mass transit;
2. Establish rules and regulations governing transit security and operations; and
3. Preserve the safety, security and rights of the general public using the transit system;

and

WHEREAS, section 30B-4 of the Code provides a list of activities that are prohibited on the transit system in order to enable the safe, secure and efficient operation of the transit system;

and

WHEREAS, currently, a law enforcement officer has discretion to issue a fine not to exceed \$500.00 or to effectuate an arrest, or both, for an enumerated violation of section 30B-4;

and

WHEREAS, this ordinance provides an additional means under chapter 8CC of the Code to enforce violations of section 30B-4 of Code; and

WHEREAS, the Board has an interest in enacting monetary civil penalties for certain violations of section 30B-4, as such civil penalties will act as an additional deterrent to such violations and would provide law enforcement with additional options when encountering such violations,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 30B-3 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 30B-3. - Applicability and penalties.

- (1) Applicability. This chapter applies to all who utilize the transit system.
- (2) Penalties.
 - (a) Any person violating subsections (2), ~~[(5), (6), (7), (9), (10),]~~ (11) and (22) of ~~[[S]]>>s<<ection 30B-4 of the Code of >>Miami-Dade County<< [[Metropolitan-Dade County]]~~ shall, upon being warned by a ~~>>Miami-Dade<< Police Officer [[of Metropolitan-Dade County]]~~, cease the prohibited activity. If the person continues the prohibited activity after such warning, the police officer may direct the individual to leave the train or to leave the premises of the station. Any individual who does not leave as directed, shall be charged with trespassing and subject to a fine not to exceed five hundred dollars (\$500.00), or by imprisonment not to exceed sixty (60) days in the County Jail, or both.

¹ Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted. Words underscored and/or ~~>>double arrowed<<~~ constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

In lieu of any fine or penalty, the court may order any person convicted of violating any provision of this chapter to participate in transit public service for a minimum of ten (10) hours. Such service may include graffiti removal, cleaning of transit vehicles, and maintenance of transit right-of-way.

>>(b) Any person violating subsections (5), (6), (7), (9), and (10), of section 30B-4 of the Code shall, upon being warned by a Miami-Dade Police Officer, cease the prohibited activity. If the person continues the prohibited activity after such warning, the police officer may direct the individual to leave the train or to leave the premises of the station.

1. Any individual who does not leave as directed, may be charged with trespassing and subject to a fine not to exceed five hundred dollars (\$500.00), or by imprisonment not to exceed sixty (60) days in the County Jail, or both. In lieu of any fine or penalty, the court may order any person convicted of violating any provision of this chapter to participate in transit public service for a minimum of ten (10) hours. Such service may include graffiti removal, cleaning of transit vehicles, and maintenance of transit right-of-way.

2. At the discretion of the Miami-Dade Police Officer, in lieu of the provisions of subsection 1 above, the individual who does not leave as directed, shall be subject to the enforcement provisions of chapter 8CC of the Code.<<

[[~~(b)~~]]>>(c)<<

For violations of subsections ~~[(1), (3),]~~ (4), (8), (12), ~~[(13),]~~ (14), ~~[(15), (16),]~~ (17), (18), (19), (20), (21), and (23) of ~~[[S]]>>s<<~~ection 30B-4 of the Code ~~[[of Metropolitan Dade County]]~~ and for any other provision of this chapter for which another penalty is not specifically provided shall be punished by a fine not to exceed five hundred dollars (\$500.00), or by imprisonment not to exceed sixty (60) days in the County Jail, or both. In lieu of

any fine or penalty, the court may order any person convicted of violating any provision of this chapter to participate in transit public service for a minimum of ten (10) hours. Such service may include graffiti removal, cleaning of transit vehicles, and maintenance of transit right-of-way.

>>(d) Any person violating subsections (1), (3), (13), (15), and (16) of section 30B-4 of the Code shall be:

1. Punished by a fine not to exceed five hundred dollars (\$500.00), or by imprisonment not to exceed sixty (60) days in the County Jail, or both. In lieu of any fine or penalty, the court may order any person convicted of violating any provision of this chapter to participate in transit public service for a minimum of ten (10) hours. Such service may include graffiti removal, cleaning of transit vehicles, and maintenance of transit right-of-way; or

2. At the discretion of the Miami-Dade Police Officer, subject to the enforcement provisions of chapter 8CC of the Code.<<

[[~~(e)~~]] >>(e)<< The County may institute a civil action in a court of competent jurisdiction to recover compensatory damages, including reasonable costs and expenses, for any damage caused to the transit system.

[[~~(d)~~]] >>(f)<< For violations ~~[[other than those specified in subsection (a) above]]~~ >>of section 30B-4 of the Code other than of subsections (2), (5), (6), (7), (9), (10), (11) and (22)<<, the County may institute a civil action in a court of competent jurisdiction to impose and recover a civil penalty for each violation in an amount of not more than five hundred dollars (\$500.00) per offense.

[[~~(e)~~]] >>(g)<< The judicial remedies in this section shall be independent and cumulative for the violations to which they are applicable hereunder.

6

Section 2. Section 8CC-10 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 8CC-10. Schedule of civil penalties.

* * *

Code Section	Description of Violation	Civil Penalty
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* * *

All other Chapter 30, Non-Article III, violations		50.00
>>30B-(1)<<	>>Impeding or hindering operators of mass transit vehicles<<	>>100.00<<
>>30B-(3)<<	>>Preservation of property<<	>>100.00<<
>>30B-(5)<<	>>Smoking or spitting<<	>>100.00<<
>>30B-(6)<<	>>Drinking or eating<<	>>100.00<<
>>30B-(7)<<	>>Sanitation<<	>>100.00<<
>>30B-(9)<<	>>Radio playing<<	>>100.00<<
>>30B-(10)<<	>>Insulting or obscene language<<	>>100.00<<
>>30B-(13)<<	>>Forgery and counterfeit<<	>>100.00<<
>>30B-(15)<<	>>Refusal to pay fare<<	>>100.00<<
>>30B-(16)<<	>>Transfers<<	>>100.00<<
31-68	Solicitation of passenger patronage on behalf of business establishment	500.00

* * *

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

APW

Prepared by:

AL

Annery Pulgar Alfonso
Bruce Libhaber

Prime Sponsor: Commissioner Jose "Pepe" Diaz